HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 15726/2026
CNR: RJHC020765232026 | URN: CW / 33492U / 2026

Mrs. Rishu Chaudhary, W/o Shri Neelesh Chaudhary, Aged About 49 Years, Sole Proprietor Of M/s Sagar Overseas, Having Its Registered Office At G1/125 (A), RIICO, Industial Area, Khushkera, Bhiwadi, Rajasthan - 307719 Through Its Power Of Attorney Holder Nilesh Kumar Choudhary S/o Shri Ranveer Singh R/o B-160, Aashiyana Gardens, Alwar Byepass Road, Bhiwadi Tehsil Tijara, Alwar Rajasthan Currently Residing At 40/40 Swarn Path, Mansarovar, Jaipur, Rajasthan - 302020

----Petitioner

Versus

1. Indian Overseas Bank, 3A/7, U.i.t Colony, Gaurav Path Bhiwadi, Tehsil Tihara, District Alwar, Rajasthan, Through Its Branch Manager. Regional Office Sb-57, 1St Floor, Riddhi Tower, Tonk Road, Jaipur-302015, Through Its Chief Manager
2. M/s Amg Industries, A Partnership Firm Through Its Partner And Authorized Signatory Mr. Amit Gupta Having Its Office At D - 348/3, Gail No. 8, Near Jankalyan School Road, Bhajanpura North East, New Delhi

----Respondents

For Petitioner(s)	:	Mr.S.S. Hora with Mr.Ishan Khandelwal, Mr.Himanshu Agarwal
For Respondent(s)	:	Mr.Anurag Kalawatia with Ms.Anjali Sharma & Ms.Suhani Bardia Mr.Ganesh Sharma

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JUSTICE ANOOP KUMAR DHAND

Order

08/09/2026

1. The instant writ petition has been preferred by the petitioner for assailing the validity of the impugned order dated 04.06.2026,

passed by the Debt Recovery Appellate Tribunal, Delhi (for short, "the DRAT") by which the appeal submitted by the petitioner against the order dated 03.01.2019 of Debt Recovery Tribunal, Jaipur (for short, "the DRT") has been rejected on the ground that a time barred Securitisation Application was submitted by the petitioner before the DRT.

2. Learned counsel for the petitioner submits that SARFAESI proceedings were initiated against the petitioner by the respondent-Bank by way of issuing notice under Section 13(4) of the SARFAESI Act on 17.04.2017. Thereafter, an order under Section 14 of the SARFAESI Act was passed by the District Collector & Magistrate, Alwar dated 08.10.2018 in the absence of petitioner, hence, he was not aware about the aforesaid order being passed by the Collector. Counsel submits that the order dated 08.10.2018 passed by the Collector, was communicated to the petitioner by the respondent-Bank vide e-mail dated 25.10.2018 and immediately thereafter, the petitioner approached the DRT by way of filing a Securitistion Application under Section 17 of the SARFAESI Act on 29.11.2018. Counsel submits that the grounds so raised by the petitioner in the aforesaid application before the DRT were not considered and the DRT rejected the application submitted by the petitioner being time barred vide order dated 03.01.2019 against which an appeal was preferred by the petitioner before the DRAT. The DRAT has not decided the said appeal on its merits, but has rejected the same on a technical count that there was delay in filing the aforesaid Securitisation Application before the DRT.

3. Counsel submits that all orders passed under Sections 13 & 14 of the SARFAESI Act can be assailed by an aggrieved person by way of filing an application under Section 17 of the SARFAESI Act. Counsel further submits that the limitation for such application would not commence with effect from the date of issuance of notice under Sections 13 and 14 of the SARFAESI Act, but in stead, his cause of action would also arise, after passing of the order under Section 14 of the SARFAESI Act.

4. In support of his contention, counsel for the petitioner has placed reliance upon the following judgments:-

1. **Vimla Kashyap & Ors. Vs. Union of India & Ors.** reported in **2025 SCC OnLine All 5299**.

2. **Hindon Forge Private Limited & Anr. Vs. State of Uttar Pradesh & Anr.** reported in **(2019) 2 SCC 198**.

3. **Kanaiyalal Lalchand Sachdev & Ors. Vs. State of Maharashtra & Ors.** reported in **(2011) 2 SCC 782**.

4. **Standard Chartered Bank Vs. V. Noble Kumar & Ors.** reported in **(2013) 9 SCC 620**.

5. **Authorised Officer, Indian Overseas Bank & Anr. Vs. Ashok Saw Mill** reported in **(2009) 8 SCC 366**.

6. **Vinu Thomas Vs. South Indian Bank Ltd. & Ors.** reported in **2022 SCC OnLine Ker 8392**.

5. Counsel submits that the impugned order passed by the DRAT is not sustainable in the eyes of law, hence, the same is liable to be quashed and set-aside.

6. *Per contra*, learned counsel appearing on behalf of the respondent-Bank as well as counsel appearing on behalf of the auction purchaser submits that the petitioner borrowed certain amount from the respondent-Bank and when the said amount was not repaid by her, her account was declared as NPA on 31.12.2016 and thereafter, notice under Section 13(2) of the SARFAESI Act was issued to the petitioner on 01.01.2017. When the petitioner failed to repay the amount despite the aforesaid notice being served to her, the notice under Section 13(4) of the SARFAESI Act was issued to the petitioner on 17.04.2017. Thereafter, a sale notice was issued by the respondent-Bank to auction the secured property of the petitioner, however, the petitioner was allowed an opportunity to go for one-time settlement, but the petitioner failed to obey the conditions of the OTS Scheme and subsequently, the second and third sale notices were issued by the respondent-Bank and finally the mortgaged property was put to auction on 21.11.2018.

7. Counsel submits that the petitioner was well-aware about the proceedings initiated against him under the SARFAESI Act by the respondent-Bank in 2017, but he kept mum till the mortgaged property was auctioned and thereafter, he approached the DRT at a belated stage, without giving plausible explanation for such inordinate delay in filing the Securitisation Application under Section 17 of the SARFAESI Act before the DRT. Counsel submits that the DRT has taken into account all the above objections, which have been taken by the petitioner before this Court and the application submitted by the petitioner was rightly rejected by the DRT by passing the order impugned. Counsel submits that these

facts were further reiterated by the DRAT, while passing the impugned order dated 04.06.2026 thereby the appeal was rejected. Hence, interference of this Court is not warranted and the instant petition is liable to be rejected.

8. Heard and considered the submissions made at the Bar and perused the material available on record.

9. Perusal of the record indicates that the order dated 04.06.2026 passed by the DRAT is under challenge before this Court, by which the appeal submitted by the petitioner against the order dated 03.01.2019 of DRT has been rejected by the DRAT, by holding that there was a delay in filing the Securitisation Application by the petitioner before the DRT.

10. Now, the question which remains for consideration of this Court is as to whether there was delay in filing the Securitisation Application before the DRT?

11. The petitioner has assailed a message received by him from the respondent-Bank, through e-mail, dated 25.10.2018. Perusal of the e-mail dated 25.10.2018 reveals that after initiating the proceedings under Section 13(4) of the SARFAESI Act, this fact was intimated to the petitioner by the respondent-bank by sending the aforesaid e-mail and the petitioner has assailed the aforesaid e-mail by way of filing a Securitisation Application under Section 17 of the SARFAESI Act before DRT.

12. The Hon'ble Apex Court in the case of **Ashok Saw Mill** (supra) has dealt with the identical issue as to whether the DRT would have jurisdiction to consider and adjudicate the proceedings post commencement of Section 13(4) proceedings and the events which occurred thereafter. The scope of the Section 17 was

interpreted and finally it was held by the Hon'ble Apex Court in Para Nos.35, 36 & 39, which reads as under:-

> "**35.** In order to prevent misuse of such wide powers and to prevent prejudice being caused to a borrower on account of an error on the part of the banks or financial institutions, certain checks and balances have been introduced in Section 17 which allow any person, including the borrower, aggrieved by any of the measures referred to in sub-section (4) of Section 13 taken by the secured creditor, to make an application to the DRT having jurisdiction in the matter within 45 days from the date of such measures having taken for the reliefs indicated in subsection (3) thereof.
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> **36.** The intention of the legislature is, therefore, clear that while the banks and financial institutions have been vested with stringent powers for recovery of their dues, safeguards have also been provided for rectifying any error or wrongful use of such powers by vesting the DRT with authority after conducting an adjudication into the matter to declare any such action invalid and also to restore possession even though possession may have been made over to the transferee.
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> **39.** We are unable to agree with or accept the submissions made on behalf of the appellants that the DRT had no jurisdiction to interfere with the action taken by the secured creditor after the stage contemplated under Section 13(4) of the Act. On the other hand, the law is otherwise and it contemplates that the action taken by a secured

> creditor in terms of Section 13(4) is open to scrutiny and cannot only be set aside but even the status quo ante can be restored by the DRT."

13. The aforesaid view taken by the Hon'ble Apex Court in the case of **Ashok Saw Mill** (supra) was further reiterated by the Hon'ble Apex Court in the case of **Kanaiyalal Lalchand Sachdev** (supra) wherein the Hon'ble Apex Court has held that Section 14 is continuance of the proceedings under Section 13(4) of the SARFAESI Act and would give cause of action to file Securitisation Application before the DRT. The Hon'ble Apex Court has further held that all steps, contemplated under Section 13(4) of the SARFAESI Act, give rise to a cause of action to the borrower or the person aggrieved to approach the DRT by way of filing an application/petition under Section 17 of SARFAESI Act. The limitation for filing such application has to be calculated from the date of the last action against which the aggrieved person has approached the DRT under Section 17 of SARFAESI Act. It has been held in Para No.22, which read as under:

> "22. We are in respectful agreement with the above enunciation of law on the point. It is manifest that an action under Section 14 of the Act constitutes an action taken after the stage of Section 13(4), and therefore, the same would fall within the ambit of Section 17(1) of the Act. Thus, the Act itself contemplates an efficacious remedy for the borrower or any person affected by an action under Section 13(4) of the Act, by providing for an appeal before the DRT."

In the instant case, the last communication was made to the petitioner on 25.10.2018 and upon feeling aggrieved by the aforesaid, the petitioner approached the DRT by way of filing the application under Section 17 of the SARFAESI Act on 29.11.2018, hence, there is no delay on the part of the petitioner in approaching the DRT, as per the law laid down by the Hon'ble Apex Court in the case of **Kanaiyalal Lalchand Sachdev** (supra).

14. The provisions contained under Section 17 of the SARFAESI Act and the limitation prescribed thereunder is required to be construed liberally. The law should not be harsh against the defaulter-borrower. In the case of default in repaying the borrowed amount to the bank, the Bank itself is the claimant, the judge and the executioner. The only remedy available to the defaulter-borrower is to approach the DRT by way of filing an application under Section 17 of the SARFAESI Act.

To deny the borrower an opportunity to access or approach the DRT while questioning the steps taken by the secured creditor to get physical possession of the mortgaged assets, would tantamount to ignoring the Constitutional Right available to him/her under Article 300A of the Constitution of India. Deferring the legal access to a stage after he/she has been dispossessed, would render his/her rights under Article 300A as meaningless.

In the considered opinion of this Court, even after initiation of the procedure under Sections 13(4) and 14 of the SARFAESI Act, the petitioner has a valid cause of action to move the DRT.

15. In the considered opinion of this Court, the DRAT instead of rejecting the appeal of the petitioner, on a technical count of delay in approaching the DRT and limitation, ought to have proceeded to decide the appeal on its merits. But in stead of doing so, the appeal has been decided only on the technicalities, i.e., delay in

approaching the DRT at a belated stage. On this count alone, the impugned order dated 04.06.2026 passed by the DRAT is not found to be sustainable in the eyes of law and the same is required to be quashed and set-aside. The appeal, submitted by the petitioner before the DRAT, is ordered to be restored and re-registered to its original number.

16. The parties are directed to appear before the DRAT on 22.09.2026.

17. The DRAT is directed to decide the appeal expeditiously as early as possible, preferably within a period of four weeks thereafter, without entertaining any unnecessary and unwarranted request for adjournment made by either side.

18. Before parting with this order, it is made clear that the DRAT would decide the appeal on its merits, without being influenced by any of the observations made by this Court.

19. With the aforesaid observations and directions, the instant writ petition stands disposed of. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

253/Aayush Sharma